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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,868	08/20/2003	Steve Anspach	20-522	5191

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EXAMINER

GEE, JASON KAI YIN

ART UNIT	PAPER NUMBER
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2134

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09/12/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/643,868	Applicant(s) ANSPACH ET AL.	
	Examiner JASON K. GEE	Art Unit 2134	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>5/20/08 & 7/22/08</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is response to communication: RCE filed on 08/18/2008.
2. Claims 15-20 are currently pending in this application. Claims 15 and 18 are independent claims.
3. The IDS received 05/20/2008 and 07/22/2008 has been accepted.
4. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08/18/2008 has been entered.

Response to Arguments

5. Applicant's arguments filed on 07/23/2008 in regards to the amended claims have been considered but are moot in view of the new ground(s) of rejection.
6. Applicant's arguments filed 07/23/2008 in regards to the previous references have been fully considered but they are not persuasive. The applicants argue that the finality of the previous office action was improper. However, this was already discussed in the advisory action sent on 08/01/2008, stating that the action was proper, as the reference used was in the IDS. The point is now moot as the applicants filed an RCE.

Further, the applicants argue that the KIV-7 Family Article is not proper, as it was published after the filing date. The applicants also argue that no hard copy was submitted with the Office Action. However, a hard copy was submitted on 07/12/2007. On this hard copy, it stated "Last updated on: 06/13/2001 14:47:46." Therefore, the article was published before the filing date of the present application.

The applications continue to argue that the ViaSat article is not proper because it was not publicly available. However, a hard copy was submitted on 07/12/2007, and the publishing date was in 2001, and thus, the article remains a proper reference. The ViaSat article is a specification sheet of the ViaSat KIV-21. As mentioned in the application's specification, the KIV-21 was created by viasat and was publicly available.

Throughout the arguments, the appellant seem to emphasize that the combination of multiple references (3 and more) is an indication of the non-obviousness of the rejection. In response to applicant's argument that the examiner has combined an excessive number of references, reliance on a large number of references in a rejection does not, without more, weigh against the obviousness of the claimed invention. See *In re Gorman*, 933 F.2d 982, 18 USPQ2d 1885 (Fed. Cir. 1991).

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 15-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As per claims 15-20, the amended claims recite passing network data and routing information from a red side router through an encryption device to provide bulk encrypted data. This bulk encrypted data then goes through a black side router over a public internet. However, this was not taught in the application's specification. In paragraph 54 of the applicant's specification (publication 2005/0044358), routing information is discussed. This routing information is not passed through the KIV-7HSB device. Instead, this information is passed from red side router to red side router. The specification does not teach encrypting this data, encapsulating it, or routing this information through a black side router.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claims 15-20, the independent claims recite "routing information." It is unclear what type of information is considered routing information. One of ordinary skill in the art does not know what may comprise routing information. A routing information

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protocol (RIP) is well known in the art, but the specification does not teach implementing such a protocol.

Double Patenting

10. The provisional double patenting rejection with regards to Copending Application No. 10/699,834 has been withdrawn in response to applicant's Terminal Disclaimer submitted on 09/12/2007 that has been approved by the Office.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 15, and 18 are rejected under 35 U.S.C. 103(a) as being obvious over *Global Broadcast Service (GBS) End-to-End Services: Protocols and Encapsulation* by Michael DiFrancisco et al. (hereinafter DiFrancisco), 2000, in view of Beser et al. US Patent No. 6,496,867 (hereinafter Beser), in view of Elliott US Patent No. 7,023,818 (hereinafter Elliott), and further in view of Haight European Patent Application EP 1283630A2 (hereinafter Haight).

As per claim 15, DiFrancisco teaches a method of providing a deployable communication system, comprising: passing network data through an encryption device

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to provide bulk encrypted data (page 705, 2.1.2, wherein serial encryptors such as kg-194 and kg-84 inherently utilize bulk encryption); encapsulating said bulk encrypted data (page 707, 3.0), routing said IP encapsulated, bulk encrypted data from an output port of said deployable communication system over a public Internet (page 706, 2.3 and 2.3.1; packets are inherently output from output ports); wherein said deployable communication system enables routing of secure communications via said Internet using said IP packets comprising said encapsulated bulk encrypted data (page 706, 2.3 and 2.3.1; also page 707, 3.0).

Although DiFrancisco does not explicitly teach encapsulating the cells into IP after encrypting, this would have been obvious. Encrypting data packets before encapsulating them into IP is well known, and is widely used, and is referred to as a "tunnel mode," and is widely known in IPSec. For example, Beser teaches that it is well known in the art that information may be encrypted inside the IP packets before transmission, to conceal the information inside (col. 1 lines 54-67 and col. 2 lines 1-18).

Further, the DiFrancisco and KIV Family does not explicitly teach routing data from a plurality of sources by a red side router, said plurality of sources comprising telephony devices and computing devices, and routing encrypted data through a black side router. This is obvious though, as taught in by Elliott in col. 7 lines 1- 25.

Further, passing routing information through red/black routing devices is not explicitly taught by teh DiFrancisco combination. However, this is taught by Haight throughout the reference, such as in the Abstract, and paragraphs 14, 19, 29, 30, and 31.

In addition, at the time of the invention, the DiFrancisco combination does not explicitly teach that the system is a portable system. However, making a system portable is obvious, as it increases the flexibility of the system. Also, see *In re Lindberg*, 194 F.2d 732, 735, 93 USPQ 23, 26 (CCPA 1952).

At the time of the invention, it would have been obvious to incorporate the teachings of Beser, Encrypting data before IP encapsulation, as admitted by Beser, is well known in the art. By doing so, it would increase security as the information inside the IP packets are concealed. (col. 2 lines 1-4). However, encrypting before would use more computing power, but it is well known in the art that there is always tradeoffs in security and efficiency/time.

At the time of the invention, it would have been obvious to combine the DiFrancisco combination with the Elliott reference. One of ordinary skill in the art would have been motivated to perform such an addition to ensure security, as the red/black routers are geared toward a system which provides security. Further, Elliott is directed toward portable deployable communication systems which provide security in communication systems. As described in Elliott in col. 7 lines 10-27, the red/black terminology is directed toward military communication terms, and it would have been obvious to use such a system for such needs, as security is greatly needed in these areas.

At the time of the invention, it would have been obvious to one of ordinary skill in the art to combine the Haight reference with the DiFrancisco combination. One of ordinary skill in the art would have been motivated to perform such an addition to create

more security and efficiency by routing data of multiple levels of security in a data communication network (paragraphs 1, 13, 14).

Claim 18 is rejected using the same basis of arguments used to reject claim 15 above.

13. Claims 16 and 19 are rejected under 35 U.S.C. 103(a) as being obvious over the DeFrancisco combination as applied above, and further in view of *KIV-7 Family* (hereinafter KIV Family).

As per claim 16, the DiFrancisco combination does not explicitly teach KIV type encryption devices, such as KIV-7. However, DiFrancisco teaches Type 1 serial encryptors, such as KG-194, KG-84, etc. If not inherent, it is very well known in the art that one of the most common type 1 serial encryptors are KIV encryptor units. For further information, this may be found in KIV Family, such as on page 1, relating the KIV-7 family with the KG-84.

At the time of the invention, it would have been obvious to combine the KIV Family reference with DiFrancisco. As stated earlier, DiFrancisco teaches type 1 serial encryptors, and it is well known in the art, if not inherent, that KIV encryptors are commonly used for type 1 serial encryptors. By utilizing KIV encryption, the KIV standards will be met, and can be adaptable to the security systems already in use with the type 1 serial encryptors.

Claim 19 is rejected using the same basis of arguments used to reject claim 16 above.

14. Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being obvious over Di Francisco combination as applied above, and further in view of KIV-21 ViaSat IP Crypto (hereinafter ViaSat).

As per claim 17, the DiFrancisco combination does not explicitly teach KIV-21. However, DiFrancisco teaches that any type 1 serial encryptor may be used. The KIV-21 is well known in the art, as can be seen in the ViaSat reference.

At the time of the invention, it would have been obvious to combine the ViaSat reference with the DiFrancisco reference. One of ordinary skill in the art would have been motivated to perform such an addition to provide more security. It teaches in ViaSat on page 1 multiple advantages, one of them being that KIV-21 is ideal to create a Type 1 VPN supporting any IP-based client/server application including web browsing.

Claim 20 is rejected using the same basis of arguments used to reject claim 17 above.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to www whose telephone number is (571)272-6431. The examiner can normally be reached on M-F, 7:00 am to 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand can be reached on (571) 272-38113811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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08/09/2008

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